### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In clams 1 and 8 the phrases "bar-like" and "plate-like", in claim 3 the phrase "of attached sands and the like" are confusing, vague, and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

Claim 3 is not understood and it is not clear what structural limitations applicant intends to encompass with such language.

In cliam 5 the phrase "an ingredient providing a design effect" is confusing, vague, and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

In claim 8 the phrases "by combining, in an appropriate manner" and "an opening part delimited by said outer frame" are vague and indefinite.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yamamoto (6625902).

5. Claims 6, 7, and 12-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mochizuki (4525940).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto.

Yamamoto discloses the claimed invention except for the exact material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use transparent or half-transparent synthetic resin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

8. Claims 8 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (2002/0088140) in view of Levine (3061950).

Wang shows a shoe comprising a frame element (100) with "bar-like" elements (20 or 30) and a cover (portion of 10 through which holes 12 are located) substantially as claimed except for the "bar-like" elements being slanted. Levine teaches slanting "bar-like " elements (34 and 35) in a sole. It would have been obvious to slant the "bar-like" elements as taught by Levine in

the shoe of Wang to provide a more cushioned, comfortable shoe sole and to prevent debris from easily entering through the bottom of the sole to the top.

1. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **http://pair-direct.uspto.gov**. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at www.uspto.gov.

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Any inquiry concerning the MERITS of this examination from the examiner should be directed to Marie Patterson whose telephone number is (571) 272-4559. The examiner can normally be reached from 6AM - 4PM Mon-Wed.

/Marie Patterson/
Primary Examiner
Art Unit 3728